

Message Text

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ACTION EB-07

INFO OCT-01 EUR-12 ISO-00 L-03 CAB-02 CIAE-00 COME-00

DODE-00 DOTE-00 INR-07 NSAE-00 FAA-00 IO-10 SS-15

NSC-05 /062 W

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O P 091043Z OCT 75

FM AMEMBASSY BONN

TO SECSTATE WASHDC PRIORITY 3492

INFO AMEMBASSY LONDON IMMEDIATE

AMCONSUL MUNICH

LIMITED OFFICIAL USE SECTION 01 OF 03 BONN 16574

LONDON PLEASE PASS TO RCAA GERALD J. MONROE

E.O. 11652: N/A

TAGS: EAIR, GW

SUBJECT: CIVAIR: FRG RESTRICTIONS ON TRUCKING OF AIR
FREIGHT BY FOREIGN CARRIERS

REF: A. STATE 235980 B. BONN 15376

1. SUMMARY: EMBASSY DELIVERED NOTE CONTAINED REF A TO
FONOFF AND COPY TO FEDERAL MINISTRY OF TRANSPORT (FMT)
ON OCTOBER 7. NEITHER HAS ANSWERED OFFICIALLY AS YET
BUT LATTER GAVE EXPLANATION OF FMT'S SEPTEMBER 30 REULATION
WHICH DESCRIBED AS BASICALLY MOVE TO PREVENT UNREGULATED
SITUATION WITH LAPSE OF IATA RULES ON AIR FREIGHT FOR
CARRIERS IN NORTH ATLANTIC TRADE. FMT OFFICIAL ALSO
NOTED NEED TO MOVE AGAINST REBATING AND OTHER IMPROPER
PRACTICES IN TRUCKING OF AIR FREIGHT AND AGAINST DE-
CEIVING OF SHIPPERS WHOSE SUPPOSED AIR FREIGHT ACTUALLY
BEING TRUCKED PART OF THE WAY. ALTERNATE ARRANGEMENT
UNDER WHICH CARRIERS WOULD BE ABLE TO TRUCK ONLY BETWEEN
TERMINALS WHERE THEY HAVE SCHEDULED SERVICES OR THROUGH
ANOTHER AIRLINE AS AGENT WERE DEFENDED BY FMT AS WORKING
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NO HARDSHIP ON CARRIERS. AMERICAN CARRIERS TOLD EMBASSY

THAT IATA AND AIR VERSUS TRUCK CARRIAGE OF FREIGHT NOT REALLY INVOLVED. REAL PROBLEM IS REBATING WHICH IS PROBLEM NEEDING REMEDY, BUT AMERICAN CARRIERS OBJECT TO FMT APPROACH WHICH THEY SAY WILL WORK HARDSHIPS ON THEM. SEABOARD (SWA) CLAIMS NEW PROCEDURES BECAUSE OF TRANSFER DELAYS WOULD CAUSE THEM TO LOSE SEVENTY PERCENT OF THEIR BUSINESS. SWA AND LUFTHANSA (DLH) NOW TRYING TO WORK OUT AGREEMENT OF ALL FOREIGN CARRIERS NOT TO ENGAGE IN REBATING. EMBASSY WILL URGE FRG TO DELAY IMPLEMENTATION ITS "INTERPRETATION" OF IATA RULES IN ITS SEPTEMBER 30 LETTER TO GIVE THIS ALTERNATIVE APPROACH TIME TO PROVE ITSELF. END SUMMARY

2. ON OCTOBER 7, EMBASSY OFFICER DELIVERED A NOTE VERBALE TO THE FONOFF IN ACCORDANCE WITH REFTTEL A AND WAS ASSURED OF EARLY CONSIDERATION OF THE SUBJECT MATTER. A COPY OF THE NOTE WAS HANDED TO PAAS OF FEDERAL MINISTRY OF TRANSPORTATION (FMT), WHO IS PRINCIPLE FMT OFFICIAL DEALING WITH THIS MATTER. PAAS PROMISED A REPLY AFTER HE HAD HAD TIME TO STUDY THE NOTE, WHICH HE OBSERVED SHOWED THAT THE USG VIEW OF THE TRUCKING PROBLEM WAS BASICALLY DIFFERENT FROM THAT OF THE FRG.

3. EMBOFF STRESSED TO PAAS DEEP CONCERN OF USG OVER IMPACT OF FMT ACTION ON CARGO ACTIVITIES OF U.S. CARRIERS IN THE FRG, UNDERLINING REQUEST FOR, AT MINIMUM, DEFERRAL OF FRG ACTION CONTAINED IN PENULTIMATE PARAGRAPH OF THE NOTE. PAAS REPLIED THAT THE FRG WOULD NOT BE ABLE TO COMPLY WITH THIS REQUEST AS THE TIMING OF THE ACTION TAKEN ON SEPTEMBER 30 VIS-A-VIS IATA WAS DICTATED BY THE EXPIRATION AS THAT DATE OF IATA RESOLUTION 507B WITH RESPECT TO NORTH ATLANTIC TRAFFIC TO AND FROM THE FRG.

4. PAAS SAID THAT REASON FOR SEPTEMBER 30 ACTION WAS THAT AFTER IATA HAD FAILED TO REACH AGREEMENT CONCERNING THE CONTINUED APPLICATION OF RESOLUTION 507B AND 512B AFTER SEPTEMBER 30, THE FMT FELT THAT ACTION HAD TO BE TAKEN TO AVOID AN OPEN RATE SITUATION. IN THE OPINION OF THE FMT, THE VALIDATION OF 507B BY IATA (UNDER RESOLUTION 008A) FOR A PERIOD OF 60 DAYS FOR ALL TRAFFIC LIMITED OFFICIAL USE

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EXCEPT THE NORTH ATLANTIC WAS SUBJECT TO APPROVAL BY THE FRG. IN APPROVING THE IATA ACTION, THE FMT ATTACHED ITS INTERPRETATION TO 507B (SEE REFTTEL B, PARA 4) AND, AT THE SAME TIME, AUTHORIZED THE APPLICATION OF 507B (AS INTERPRETED) AND 512B FOR THE NORTH ATLANTIC TRAFFIC TO AND FROM THE FRG, EFFECTIVE OCTOBER 1, 1975.

5. PAAS MAINTAINED THAT THE FMT ACTION DID NOT IN ANY

WAY LIMIT OR RESTRICT THE EXERCISE OF TRAFFIC RIGHTS
HELD BY FOREIGN CARRIERS IN THE FRG. HE POINTED OUT
THAT SWA AND PAA WOULD BE ABLE TO CONTINUE TO ACQUIRE
AIR CARGO BUSINESS AT ALL OF THE FRG'S INTERNATIONAL
AIRPORTS (EXCEPT NUERNBERG) WHILE LUFTHANSA (DLH) HAS

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O P 091043Z OCT 75
FM AMEMBASSY BONN
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THIS OPPORTUNITY ONLY AT FIVE AIRPORTS IN THE U.S.
FOREIGN CARRIERS WILL BE ABLE TO DO SO UNDER THEIR OWN
AIRWAY BILLS BUT WHEREVER THEY DO NOT PROVIDE AIR
SERVICES BETWEEN THE POINT OF ORIGIN OF THE CARGO AND
THE AIRPORT OF DEPARTURE (PRIMARILY FRANKFURT), THEY
WILL HAVE TO TURN THE CARGO OVER TO DLH FOR THE DOMESTIC
PORTION OF THE SHIPMENT AND REIMBURSE DLH ON A PRO-RATED
BASIS OF THE AIR CARGO TARIFF. HE SAID THERE WAS NO
PROHIBITION AGAINST THE CARRIER ABSORBING TRUCKING COSTS
AND NOT ADDING THEM TO RATES CHARGED THE SHIPPER. PAAS
IS UNDER THE IMPRESSION THAT MOST CARRIERS (OTHER THAN
SWA AND TMA) ARE WILLING TO COOPERATE UNDER THE NEW
CONCEPT. HE GAVE EMBOFF A COPY OF A LETTER FROM DLH TO
THE FMT, DATED OCTOBER 3, STATING THAT SEVERAL CARRIERS

HAVE ASKED DLH FOR "RESERVATIONS ASSURANCES" FOR INTER-LINE CARGO. DLH HAS UNDERTAKEN TO GIVE THESE ASSURANCES AND HAS INSTRUCTED ITS LOCAL CARGO OFFICES TO DEVELOP APPROPRIATE LOCAL PROCEDURES WITH INTERESTED INTERLINE PARTNERS. IN ALL INSTANCES WHERE SHIPMENTS CANNOT BE AIRLIFTED BY DLH TO FRANKFURT, THE GERMAN CARRIER WILL PROVIDE THE TRUCKING AND TURN OVER CARGO TO ORIGINATING LIMITED OFFICIAL USE

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CARRIERS AT FRANKFURT. PAAS BELIEVES THAT THE ALL-CARGO CARRIERS (SWA AND TMA) ARE PLACING TOO MUCH EMPHASIS IN THEIR ARGUMENTS ON THE 10 AND 20 FOOT CONTAINERS WHICH, ACCORDING TO HIS INFORMATION, DO NOT REPRESENT THE BULK OF THE BUSINESS AT THE MAJORITY OF AIRPORTS OUTSIDE OF FRANKFURT. A STUDY OF THE QUESTION IS UNDERWAY BY THE FMT TO CLARIFY THIS SITUATION.

6. PAAS NOTED FRG REGRET OVER LACK OF CAB ACTION ON THE IATA NICE RATE PACKAGE AND EXPRESSED HOPE TO HEAR SOON WHAT, IF ANY, ACTION THE CAB HAD TAKEN WITH RESPECT TO IATA RESOLUTION 507B FOR THE NORTH ATLANTIC TRAFFIC.

7. EMBASSY IS SENDING VIA AIR POUCH TO MICHAEL STYLES, EB/AO, INFORMATION TRANSLATIONS OF COMPLETE FMT LETTER, DATED SEPTEMBER 30 AND OF DLH LETTER TO FMT, DATED OCTOBER 3, BOTH OF WHICH WERE OBTAINED FROM PAAS OCTOBER 7.

8. LOCAL REPRESENTATIVES OF BOTH PAN AM AND SEABOARD TOLD EMBASSY THAT IATA DEVELOPMENTS WERE OCCASION BUT NOT REAL REASON FOR FMT'S SEPTEMBER 30 LETTER. THEY ALSO DISCOUNTED ISSUE OF AIR FREIGHTING VERSUS TRUCKING WITHIN GERMANY. THEY CLAIM THAT SHIPPERS ARE WELL AWARE THAT THEIR FREIGHT IS TRUCKED TO AIRPORT FROM WHICH GERMANY TO AMERICA FLIGHTS DEPART. SWA CLAIMS THAT BIG SHIPPERS PREFER TRUCKING, BECAUSE, UNDER PREVAILING CIRCUMSTANCES, IT IS THE MOST EFFICIENT WAY TO HANDLE THE PROBLEM. REAL MOTIVATION FOR FMT ACTION IS DLH AND FMT UNHAPPINESS WITH WIDESPREAD PRACTICE OF AIRLINES GRANTING REBATES TO TRUCKERS AND SHIPPERS. BOTH AMERICAN CARRIERS SAY THEY ARE SYMPATHETIC TO EFFORTS TO CURB SUCH PRACTICES BUT OBJECT TO FMT'S WAY OF DEALING WITH PROBLEM. PAA'S PROBLEM IS MAINLY ONE OF TIMING. THEY HAVE CONTRACTS WITH TRUCKERS AND CANNOT FOLLOW EASILY THE PROCEDURES SPECIFIED IN THE FMT LETTER. THEY INTEND TO KEEP ON WITH THEIR PRESENT ARRANGEMENTS FOR THE TIME BEING SO LONG AS THE FMT DOES NOT MOVE TO ENFORCE THE OCTOBER 1 EFFECTIVE DATE OF ITS LETTER.

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9. SWA'S OBJECTIONS ARE MORE FUNDAMENTAL. THEY CLAIM

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O P 091043Z OCT 75

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TO SECSTATE WASHDC PRIORITY 3494

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THAT THEY CANNOT CONFORM TO THE FMT'S PROCEDURES WITHOUT
LOSING SEVENTY PERCENT OF THEIR BUSINESS IN GERMANY.
THEY AGREE THAT DOING THEIR INTRA-GERMANY HAULING
THROUGH DLH FACILITIES WOULD NOT HURT THEM VIS-A-VIS
DLH SO FAR AS RATES ARE CONCERNED, BUT CLAIM THAT THE
TIME DELAYS INVOLVED WOULD PUT THEM OUT OF COMPETITION.
DLH WOULD BE ABLE TO UNLOAD DIRECTLY FROM TRUCKS INTO
THE AIRCRAFT, WHILE SWA FREIGHT WOULD HAVE TO GO THROUGH
DLH TRANSFER PROCEDURES INVOLVING OFF-LOADING AND
RELOADING ON ANOTHER TRUCK. SWA'S SCHEDULES ARE
SUCH THAT THE TIME DELAY WOULD EFFECTIVELY GIVE DLH
A TWENTY-FOUR HOUR ADVANTAGE ON DELIVERY TO THE U.S.

10. SWA REPRESENTATIVES MET WITH DLH OFFICIALS MORNING

OF OCTOBER 8 ON THIS PROBLEM. ACCORDING TO FORMER,
DLH CONCEDED INEQUALITY OF FMT'S ARRANGEMENT AND THE TWO
AGREED TO SEEK AN AGREEMENT AMONG ALL AIRLINES CARRYING
CARGO FROM GERMANY TO ABOLISH REBATING. ATTEMPT WAS
MADE TO DO THIS FOUR YEARS AGO BUT FAILED BECAUSE SOME
FOREIGN CARRIERS WOULD NOT GO ALONG. HOWEVER, NOW WITH
THREAT OF FMT'S NEW REGULATION AS ONLY ALTERNATIVE,
POSSIBILITIES FOR EFFECTIVE AGREEMENT ARE MUCH BETTER.
DLH HAS AGREED TO PRESS NO FURTHER ON IMPLEMENTATION
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OF THE FMT REGULATION WHILE THIS ALTERNATIVE POSSIBILITY
IS EXPLORED.

11. COMMENT: SINCE PROBABLY NEITHER FMT OR FONOFF WILL
GIVE OFFICIAL ANSWER TO OUR NOTE FOR A FEW DAYS AND
SINCE FMT HAS NOT YET ATTEMPTED TO IMPLEMENT REGULATION
CONTAINED IN ITS SEPTEMBER 30 LETTER, WE PROPOSE TO
WAIT UNTIL OFFICIAL ANSWER FORTHCOMING AND THEN URGE
FRG TO DELAY IMPLEMENTATION UNTIL DLH, SWA AND OTHERS
HAVE HAD AN OPPORTUNITY TO LINE UP OTHER AIRLINES IN
ANTI-REBATE EFFORT.
HILLENBRAND

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